

A Proposal for a New Live Outdoor Music Sound Ordinance
Provided to the Austin City Council on April 23, 2009 by Fred Nelson

A) The allowable level of sound for outdoors music should return to 85 db. A 70 db limit or any limit lower than 85 db will eliminate all outdoor music regardless of whether it is amplified or acoustic. The ambient level of any popular Austin restaurant with an outside seating area and no music playing is already at 70 db

B) Create three classes of permits for amplified sound for outdoor venues:

1) One "Non Residentially Sensitive" permit for venues with no residentially zoned properties within "X" feet (100-250-500??) of their property line.

2) A second "Residentially Sensitive" permit for venues with residentially zoned properties within "X" feet (100-250-500??) of their property line. (Freddie's, by the way would fall into this more restrictive category)

3) The third class would be downtown. Rather than just exempt two downtown entertainment districts (Warehouse & 6th Street), allow a broadly defined downtown area to qualify as a "Downtown Permit Area" regardless of the proximity to neighbors. Perhaps it should be defined as the River to MLK and Lamar to I-35. Why should venues like Hickory Street Bar & Grille and Scholz's Garten and other downtown outside music venues not be in the same boat as those within those special exempted areas.

C) All permit holders would have to adhere to the 85 db level. The difference would be the allowable times that outdoor amplified sound would be permitted.

1) The "Non Residentially Sensitive" permit holder and any permit holder in the "Downtown Permit Area" would be allowed to have amplified sound up to 85 db on the days and at the times that were allowed by the existing ordinance:

Sunday thru Wednesday – 1000 am to 1030 pm

Thursday – 1000 am to 1100 pm

Friday & Saturday – from 1000 am to Midnight

(Any venue located within the Warehouse & 6th Street Entertainment Districts would be allowed to continue music on Thursday, Friday & Saturday until 2 am.)

2) The "Residentially Sensitive" permit holders, although allowed to have 85 db amplified sound, would have much more restrictive days and times when amplified sound at that level was allowed.

Sunday - not at all – or – only from 2 pm to 8 pm

Monday thru Wednesday - not at all

Thursday – only from 2 pm to 930 pm

Friday & Saturday – only from 2 pm to 10 pm

These permit holders would revert to the less restrictive times during SXSW.

D) Make the process of obtaining or holding a permit objective not subjective. Complaints do not mean anything. Anyone can call 911 or 311 and complain. Anyone can protest the issuance of a permit. The judgment of suitability for obtaining or holding a permit should be based solely on "violations". i.e. (1) someone complained, (2) APD came out, (3) APD found the venue was in violation and (4) APD issued a citation to the venue with a mandatory fine.

2 or 3 violations of sound level or playing times in a year and a venue should lose their permit for a year.

And most importantly, do not make the process of obtaining a permit so cumbersome or daunting that it excludes the possibility of "Mom & Pop" going through the process without having to hire a legal team they cannot afford. You should only deny permit approval to a location (not a person) which has had "X" number of violations (2?) within the last 12 months.

E) WHAT'S SAUCE FOR THE GOOSE SHOULD BE SAUCE FOR THE GANDER. APD charges people \$100 whose alarm systems "cry wolf" about a alarm event after the second false alarm in a year for the simple reason that it costs the City money when APD wastes their time on false alarms. Have a similar policy for "noise complainants" related to outdoor amplified sound. After 2 calls a year about a noise violation which does not result in a citation, a complainant would be billed \$100 by APD for each additional "no citation" complaint.